



Reprinted
February 26, 2007

SENATE BILL No. 78

DIGEST OF SB 78 (Updated February 26, 2007 2:59 pm - DI 106)

Citations Affected: IC 5-2; IC 10-13; IC 11-8; IC 11-13; IC 25-20.2; IC 31-19; IC 35-38; IC 35-43; IC 35-44; IC 35-50; IC 36-2; IC 36-3; IC 36-8; noncode.

Synopsis: Stephanie's law. To honor the memory of Stephanie Wagner, changes the name of the sex offender registry to the "sex and violent offender registry" and requires persons convicted of murder or voluntary manslaughter to register on the sex and violent offender registry under the same conditions applying to registration by sex offenders. Adds a culpability standard to a criminal statute relating to the use of limited criminal histories. Requires persons in Indiana convicted of murder or voluntary manslaughter to be placed on lifetime parole. Makes technical corrections and conforming amendments.

Effective: July 1, 2007.

**Young R Michael, Weatherwax,
Mrvan, Drozda, Zakas**

January 8, 2007, read first time and referred to Committee on Rules and Legislative Procedure.

January 23, 2007, amended; reassigned to Committee on Corrections, Criminal and Civil Matters.

February 20, 2007, amended, reported favorably — Do Pass.

February 26, 2007, read second time, amended, ordered engrossed.

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SB 78—LS 6269/DI 13+



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 78

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 3. The institute is established to do the following:
4 (1) Evaluate state and local programs associated with:
5 (A) the prevention, detection, and solution of criminal
6 offenses;
7 (B) law enforcement; and
8 (C) the administration of criminal and juvenile justice.
9 (2) Improve and coordinate all aspects of law enforcement,
10 juvenile justice, and criminal justice in this state.
11 (3) Stimulate criminal and juvenile justice research.
12 (4) Develop new methods for the prevention and reduction of
13 crime.
14 (5) Prepare applications for funds under the Omnibus Act and the
15 Juvenile Justice Act.
16 (6) Administer victim and witness assistance funds.
17 (7) Administer the traffic safety functions assigned to the institute

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under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex **or violent** offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.173-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

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(2) support the **registration of sex or violent offenders under IC 11-8-8 and the Indiana sex and violent offender registry established under ~~IC 11-8-8~~, IC 36-2-13-5.5;**

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 3. IC 10-13-3-5, AS AMENDED BY P.L.20-2006, SECTION 1, AND AS AMENDED BY P.L.140-2006, SECTION 4 AND P.L.173-2006, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(2) Information, *including a photograph*, regarding a sex ~~and~~ **or violent** offender (as defined in ~~IC 5-2-12-4~~) *IC 11-8-8-5*) obtained through sex ~~and~~ **or violent** offender registration under ~~IC 5-2-12-4~~ *IC 11-8-8*.

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(4) *A photograph of the person who is the subject of the information described in subdivisions (1) through (3).*

SECTION 4. IC 10-13-3-27, AS AMENDED BY P.L.1-2006, SECTION 171, AND AS AMENDED BY P.L.140-2006, SECTION 5 AND P.L.173-2006, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and *has provided* criminal history data ~~as~~ as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused

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repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by ~~IC 31-33-1.5-2~~ IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;

(12) is being sought by the parent locator service of the child support bureau of the ~~division~~ department of family and children; child services;

(13) is or was required to register as a sex ~~and~~ or violent offender under ~~IC 5-2-12~~ IC 11-8-8; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited

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criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who **knowingly or intentionally** uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 5. IC 10-13-3-30, AS AMENDED BY P.L.173-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.
- (3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the department of child services.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **registration of sex or violent offenders under IC 11-8-8 or the Indiana sex and violent offender registry under ~~IC 11-8-8~~ IC 36-2-13-5.5** or concerns a person required to register as a sex **or violent** offender under IC 11-8-8.

SECTION 6. IC 10-13-4-4, AS AMENDED BY P.L.173-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

- (1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.
- (2) A petition alleging that the child is a delinquent child.
- (3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
- (4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.
- (5) Information:
 - (A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 11-8-8-5 if committed by an adult; and
 - (B) that is obtained through sex **or violent** offender registration under IC 11-8-8.

SECTION 7. IC 11-8-2-12.4, AS ADDED BY P.L.173-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.4. The department shall do the following:

- (1) Maintain the Indiana sex **and violent** offender registry established under IC 36-2-13-5.5.
- (2) Prescribe and approve a format for sex **or violent** offender registration as required by IC 11-8-8.
- (3) Provide:
 - (A) judges;
 - (B) law enforcement officials;
 - (C) prosecuting attorneys;
 - (D) parole officers;
 - (E) probation officers; and
 - (F) community corrections officials;
 with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex **and violent** offender registry.
- (4) Upon request of a neighborhood association:
 - (A) transmit to the neighborhood association information concerning sex **or violent** offenders who reside near the location of the neighborhood association; or
 - (B) provide instructional materials concerning the use of the Indiana sex **and violent** offender registry to the neighborhood

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1 association.

2 SECTION 8. IC 11-8-2-13, AS ADDED BY P.L.173-2006,
3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2007]: Sec. 13. (a) The Indiana sex **and violent** offender
5 registry established under IC 36-2-13-5.5 and maintained by the
6 department under section 12.4 of this chapter must include the names
7 of each offender who is or has been required to register under
8 IC 11-8-8.

9 (b) The department shall do the following:

10 (1) Ensure that the Indiana sex **and violent** offender registry is
11 updated at least once per day with information provided by a local
12 law enforcement authority (as defined in IC 11-8-8-2).

13 (2) Publish the Indiana sex **and violent** offender registry on the
14 Internet through the computer gateway administered by the office
15 of technology established by IC 4-13.1-2-1, and ensure that the
16 Indiana sex **and violent** offender registry displays the following
17 or similar words:

18 "Based on information submitted to law enforcement, a person
19 whose name appears in this registry has been convicted of a
20 sex **or violent** offense or has been adjudicated a delinquent
21 child for an act that would be a sex **or violent** offense if
22 committed by an adult."

23 SECTION 9. IC 11-8-8-3, AS ADDED BY P.L.173-2006,
24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2007]: Sec. 3. As used in this chapter, "principal residence"
26 means the residence where a sex **or violent** offender spends the most
27 time. The term includes a residence owned or leased by another person
28 if the sex **or violent** offender:

29 (1) does not own or lease a residence; or

30 (2) spends more time at the residence owned or leased by the
31 other person than at the residence owned or leased by the sex **or**
32 **violent** offender.

33 SECTION 10. IC 11-8-8-4.5 IS ADDED TO THE INDIANA CODE
34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2007]: Sec. 4.5. (a) As used in this chapter, "sex offender" means
36 a person convicted of any of the following offenses:

37 (1) Rape (IC 35-42-4-1).

38 (2) Criminal deviate conduct (IC 35-42-4-2).

39 (3) Child molesting (IC 35-42-4-3).

40 (4) Child exploitation (IC 35-42-4-4(b)).

41 (5) Vicarious sexual gratification (IC 35-42-4-5).

42 (6) Child solicitation (IC 35-42-4-6).

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(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) An attempt or a conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 11. IC 11-8-8-5, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

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(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) Murder (IC 35-42-1-1).

(15) Voluntary manslaughter (IC 35-42-1-3).

~~(14)~~ **(16)** An attempt or a conspiracy to commit a crime listed in subdivisions (1) through ~~(13)~~: **(15)**.

~~(15)~~ **(17)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(14)~~: **(16)**.

(b) The term includes:

(1) a person who is required to register as a sex **or violent** offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 12. IC 11-8-8-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.2. As used in this chapter, "sex offense" means an offense listed in section 5(a)(1) through 5(a)(17) of this chapter, except for section 5(a)(14) and 5(a)(15) of this chapter.**

SECTION 13. IC 11-8-8-7, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. (a)** Subject to section 19 of this chapter, the following persons must register under this chapter:

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(1) A sex **or violent** offender who resides in Indiana. A sex **or violent** offender resides in Indiana if either of the following applies:

(A) The sex **or violent** offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex **or violent** offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex **or violent** offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time: ~~for a period:~~

(A) ~~for a period~~ exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex **or violent** offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex **or violent** offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex **or violent** offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex **or violent** offender resides. If a sex **or violent** offender resides in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county in which the sex **or violent** offender resides. If the sex **or violent** offender is also required to register under subsection (a)(2) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex **or violent** offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex **or violent** offender is or intends to be employed or carry on a vocation. If a sex **or violent** offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex **or violent** offender described in subsection (a)(3) shall

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1 register with the local law enforcement authority in the county where
 2 the sex **or violent** offender is enrolled or intends to be enrolled as a
 3 student. If the sex **or violent** offender is also required to register under
 4 subsection (a)(1) or (a)(2), the sex **or violent** offender shall also
 5 register with the local law enforcement authority in the county in which
 6 the offender is required to register under subsection (b) or (c).

7 (e) A sex **or violent** offender described in subsection (a)(1)(B) shall
 8 register with the local law enforcement authority in the county in which
 9 the real property is located. If the sex **or violent** offender is also
 10 required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex
 11 **or violent** offender shall also register with the local law enforcement
 12 authority in the county in which the offender is required to register
 13 under subsection (b), (c), or (d).

14 (f) A sex **or violent** offender committed to the department shall
 15 register with the department before the sex **or violent** offender is
 16 released from incarceration. The department shall forward the sex **or**
 17 **violent** offender's registration information to the local law enforcement
 18 authority of every county in which the sex **or violent** offender is
 19 required to register.

20 (g) This subsection does not apply to a sex **or violent** offender who
 21 is a sexually violent predator. A sex **or violent** offender not committed
 22 to the department shall register not more than seven (7) days after the
 23 sex **or violent** offender:

- 24 (1) is released from a penal facility (as defined in IC 35-41-1-21);
- 25 (2) is released from a secure private facility (as defined in
- 26 IC 31-9-2-115);
- 27 (3) is released from a juvenile detention facility;
- 28 (4) is transferred to a community transition program;
- 29 (5) is placed on parole;
- 30 (6) is placed on probation;
- 31 (7) is placed on home detention; or

32 (8) arrives at the place where the sex **or violent** offender is
 33 required to register under subsection (b), (c), or (d);
 34 whichever occurs first. A sex **or violent** offender required to register
 35 in more than one (1) county under subsection (b), (c), (d), or (e) shall
 36 register in each appropriate county not more than seventy-two (72)
 37 hours after the sex **or violent** offender's arrival in that county or
 38 acquisition of real estate in that county.

39 (h) This subsection applies to a sex **or violent** offender who is a
 40 sexually violent predator. A sex **or violent** offender who is a sexually
 41 violent predator shall register not more than seventy-two (72) hours
 42 after the sex **or violent** offender:

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- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is

required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex **or violent** offender registers under this section shall make and publish a photograph of the sex **or violent** offender on the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex **or violent** offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex **or violent** offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

(j) When a sex **or violent** offender registers, the local law enforcement authority shall:

- (1) immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5; and
- (2) notify every law enforcement agency having jurisdiction in the county where the sex **or violent** offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex **or violent** offender during registration.

SECTION 14. IC 11-8-8-8, AS ADDED BY P.L.173-2006,

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SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

(1) The sex **or violent** offender's full name, alias, any name by which the sex **or violent** offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex **or violent** offender's principal residence address.

(2) A description of the offense for which the sex **or violent** offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex **or violent** offender's employers in Indiana, the name and address of each campus or location where the sex **or violent** offender is enrolled in school in Indiana, and the address where the sex **or violent** offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex **or violent** offender.

(5) If the sex **or violent** offender is a sexually violent predator, that the sex **or violent** offender is a sexually violent predator.

(6) If the sex **or violent** offender is required to register for life, that the sex **or violent** offender is required to register for life.

(7) Any other information required by the department.

SECTION 15. IC 11-8-8-9, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex **or violent** offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender was orally informed or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was orally informed of the duty to register.

(2) Deliver a form advising the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that

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the sex **or violent** offender received the written notice or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was given the written notice of the duty to register.

(3) Obtain the address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex **or violent** offender expects to reside the sex **or violent** offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex **or violent** offender.

(b) Not more than seventy-two (72) hours after a sex **or violent** offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex **or violent** offender's fingerprints, photograph, and identification factors.

(2) The address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex **or violent** offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex **or violent** offender.

(4) Information regarding the sex **or violent** offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex **or violent** offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex **or violent** offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 16. IC 11-8-8-10, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Notwithstanding any other law, upon receiving a sex **or violent** offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

SECTION 17. IC 11-8-8-11, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) If a sex **or violent** offender who is required to register under this chapter changes:

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(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex **or violent** offender stays in Indiana;

the sex **or violent** offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex **or violent** offender last registered.

(b) If a sex **or violent** offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex **or violent** offender's residence and forward all relevant registration information concerning the sex **or violent** offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex **or violent** offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex **or violent** offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex **or violent** offender's principal place of employment, principal place of vocation, or campus or location where the sex **or violent** offender is enrolled in school, the sex **or violent** offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex **or violent** offender last registered.

(d) If a sex **or violent** offender moves the sex **or violent** offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex **or violent** offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex **or violent** offender moves the sex **or violent** offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex **or violent** offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex **or violent** offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

SECTION 18. IC 11-8-8-12, AS ADDED BY P.L.173-2006,

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SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex **or violent** offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex **or violent** offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex **or violent** offender moves into the temporary residence; and

(2) during the period in which the sex **or violent** offender resides in a temporary residence, at least once every seven (7) days following the sex **or violent** offender's initial registration under subdivision (1).

(c) A sex **or violent** offender's obligation to register in person once every seven (7) days terminates when the sex **or violent** offender no longer resides in the temporary residence. However, all other requirements imposed on a sex **or violent** offender by this chapter continue in force, including the requirement that a sex **or violent** offender register the sex **or violent** offender's new address with the local law enforcement authority.

SECTION 19. IC 11-8-8-13, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) To verify a sex **or violent** offender's current residence, the local law enforcement authority shall do the following:

(1) Mail a reply form to each sex **or violent** offender in the county at the sex **or violent** offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex **or violent** offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

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1 whichever occurs first.

2 (2) Mail a reply form to each sex **or violent** offender who is
3 designated a sexually violent predator under IC 35-38-1-7.5 at
4 least once every ninety (90) days, beginning seven (7) days after
5 the local law enforcement authority receives a notice under
6 section 11 or 20 of this chapter or the date the sex **or violent**
7 offender is:

8 (A) released from a penal facility (as defined in
9 IC 35-41-1-21), a secure private facility (as defined in
10 IC 31-9-2-115), or a juvenile detention facility;

11 (B) placed in a community transition program;

12 (C) placed in a community corrections program;

13 (D) placed on parole; or

14 (E) placed on probation;

15 whichever occurs first.

16 (3) Personally visit each sex **or violent** offender in the county at
17 the sex **or violent** offender's listed address at least one (1) time
18 per year, beginning seven (7) days after the local law enforcement
19 authority receives a notice under section 7 of this chapter or the
20 date the sex **or violent** offender is:

21 (A) released from a penal facility (as defined in
22 IC 35-41-1-21), a secure private facility (as defined in
23 IC 31-9-2-115), or a juvenile detention facility;

24 (B) placed in a community transition program;

25 (C) placed in a community corrections program;

26 (D) placed on parole; or

27 (E) placed on probation;

28 whichever occurs first.

29 (4) Personally visit each sex offender who is designated a sexually
30 violent predator under IC 35-38-1-7.5 at least once every ninety
31 (90) days, beginning seven (7) days after the local law
32 enforcement authority receives a notice under section 7 of this
33 chapter or the date the sex offender is:

34 (A) released from a penal facility (as defined in
35 IC 35-41-1-21), a secure private facility (as defined in
36 IC 31-9-2-115), or a juvenile detention facility;

37 (B) placed in a community transition program;

38 (C) placed in a community corrections program;

39 (D) placed on parole; or

40 (E) placed on probation;

41 whichever occurs first.

42 (b) If a sex **or violent** offender fails to return a signed reply form

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1 either by mail or in person, not later than fourteen (14) days after
 2 mailing, or appears not to reside at the listed address, the local law
 3 enforcement authority shall immediately notify the department and the
 4 prosecuting attorney.

5 SECTION 20. IC 11-8-8-14, AS ADDED BY P.L.173-2006,
 6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2007]: Sec. 14. At least once per calendar year, a sex **or**
 8 **violent** offender who is required to register under this chapter shall:

- 9 (1) report in person to the local law enforcement authority;
- 10 (2) register; and
- 11 (3) be photographed by the local law enforcement authority;
- 12 in each location where the offender is required to register.

13 SECTION 21. IC 11-8-8-15, AS ADDED BY P.L.173-2006,
 14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2007]: Sec. 15. (a) A sex **or violent** offender who is a resident
 16 of Indiana shall obtain and keep in the sex **or violent** offender's
 17 possession:

- 18 (1) a valid Indiana driver's license; or
- 19 (2) a valid Indiana identification card (as described in
- 20 IC 9-24-16).
- 21 (b) A sex **or violent** offender required to register in Indiana who is
- 22 not a resident of Indiana shall obtain and keep in the sex **or violent**
- 23 offender's possession:

- 24 (1) a valid driver's license issued by the state in which the sex **or**
- 25 **violent** offender resides; or
- 26 (2) a valid state issued identification card issued by the state in
- 27 which the sex **or violent** offender resides.

28 (c) A person who knowingly or intentionally violates this section
 29 commits failure of a sex **or violent** offender to possess identification,
 30 a Class A misdemeanor. However, the offense is a Class D felony if the
 31 person:

- 32 (1) is a sexually violent predator; or
- 33 (2) has a prior unrelated conviction:
 - 34 (A) under this section; or
 - 35 (B) based on the person's failure to comply with any
 - 36 requirement imposed on an offender under this chapter.
- 37 (d) It is a defense to a prosecution under this section that:
 - 38 (1) the person has been unable to obtain a valid driver's license or
 - 39 state issued identification card because less than thirty (30) days
 - 40 have passed since the person's release from incarceration; or
 - 41 (2) the person possesses a driver's license or state issued
 - 42 identification card that expired not more than thirty (30) days

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before the date the person violated subsection (a) or (b).

SECTION 22. IC 11-8-8-16, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A sex **or violent** offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex **or violent** offender who is required to register under this chapter changes the sex **or violent** offender's name due to marriage, the sex **or violent** offender must register with the local law enforcement authority not more than seven (7) days after the name change.

SECTION 23. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. A sex **or violent** offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex **or violent** offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex **or violent** offender under this chapter; or
- (4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex **or violent** offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex **or violent** offender under this chapter.

SECTION 24. IC 11-8-8-19, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex **or violent** offender is required to register under this chapter until the expiration of ten (10) years after the date the sex **or violent** offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex **or violent** offender is notified that the obligation to register has expired.

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(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex **or violent** offender who is convicted of at least one (1) sex **or violent** offense that the sex **or violent** offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex **or violent** offender who is convicted of at least one (1) sex **or violent** offense in which the sex **or violent** offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex **or violent** offender who is convicted of at least two (2) unrelated sex **or violent** offenses is required to register for life.

SECTION 25. IC 11-8-8-20, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex **or violent** offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex **or violent** offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex **or violent** offender is required to register in Indiana of:

- (1) the sex **or violent** offender's name, date of relocation, and new address; and
- (2) the sex **or violent** offense or delinquent act committed by the sex **or violent** offender.

(d) The state agency shall determine, following a hearing:

- (1) whether a person convicted of an offense in another jurisdiction is required to register as a sex **or violent** offender in Indiana;

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(2) whether an out of state sex **or violent** offender is a sexually violent predator; and

(3) the period in which an out of state sex **or violent** offender who has moved to Indiana will be required to register as a sex **or violent** offender in Indiana.

SECTION 26. IC 11-13-3-4, AS AMENDED BY P.L.60-2006, SECTION 1, AS AMENDED BY P.L.139-2006, SECTION 2, AS AMENDED BY P.L.140-2006, SECTION 15, AND AS AMENDED BY P.L.173-2006, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

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- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~ **IC 11-8-8-4.5**) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~) to register with a ~~sheriff~~ *(for the police chief of a consolidated city) local law enforcement authority* under ~~IC 5-2-12-5~~ ~~IC 11-8-8~~;

(B) prohibit ~~the~~ a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, *unless the sex offender obtains written approval from the parole board*; ~~and~~

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense *unless the sex offender obtains a waiver under IC 35-38-2-2.5*; and

(D) prohibit a parolee **who is a sex offender** from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows ~~the~~ a sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the

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sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex **or violent** offender convicted of a sex **or violent** offense (as defined in IC 35-38-2-2.5) is confidential, *even if the sex **or violent** offender obtains a waiver under IC 35-38-2-2.5.*

(i) *As a condition of parole, the parole board may require a parolee to participate in a reentry court program.*

~~(j)~~ **(j)** *As a condition of parole, the parole board:*

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

*(2) may require a parolee who is a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~, IC 11-8-8-5);*

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

~~(k)~~ **(k)** *As a condition of parole, the parole board may prohibit, in accordance with ~~IC 35-38-2-2.5~~, IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.*

SECTION 27. IC 25-20.2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has graduated from high school or earned an Indiana general educational development (GED) diploma; and

(C) has not been:

(i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(ii) convicted of a crime that has a direct bearing on the individual's ability to perform competently and fully as a licensee;

(iii) listed on a national or state registry of sex **or violent** offenders; or

(iv) the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors.

(2) Verify the information submitted on the application form.

(3) Complete a board approved training program or course of

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study involving the performance of home inspections and the preparation of home inspection reports and pass an examination prescribed or approved by the board.

(4) Submit to the board a certificate of insurance or other evidence of financial responsibility that is acceptable to the board and that:

(A) is issued by an insurance company or other legal entity authorized to transact business in Indiana;

(B) provides for general liability coverage of at least one hundred thousand dollars (\$100,000);

(C) lists the state as an additional insured;

(D) states that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

(E) contains any other terms and conditions established by the board.

(5) Pay a licensing fee established by the board.

(b) An individual applying for a license as a home inspector must apply on a form prescribed and provided by the board.

SECTION 28. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17 AND P.L.173-2006, SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

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1 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
 2 executed under IC 16-37-2-2.1;
 3 has been filed in relation to the child;
 4 (7) proper consent, if consent is necessary, to the adoption has
 5 been given;
 6 (8) the petitioner for adoption is not prohibited from adopting the
 7 child as the result of an inappropriate criminal history described
 8 in subsection (c) or (d); and
 9 (9) the person, licensed child placing agency, or county office of
 10 family and children that has placed the child for adoption has
 11 provided the documents and other information required under
 12 IC 31-19-17 to the prospective adoptive parents;
 13 the court shall grant the petition for adoption and enter an adoption
 14 decree.

15 (b) A court may not grant an adoption unless the ~~department's state~~
 16 *department of health's* affidavit under IC 31-19-5-16 is filed with the
 17 court as provided under subsection (a)(4).

18 (c) A conviction of a felony or a misdemeanor related to the health
 19 and safety of a child by a petitioner for adoption is a permissible basis
 20 for the court to deny the petition for adoption. In addition, the court
 21 may not grant an adoption if a petitioner for adoption has been
 22 convicted of any of the felonies described as follows:

- 23 (1) Murder (IC 35-42-1-1).
- 24 (2) Causing suicide (IC 35-42-1-2).
- 25 (3) Assisting suicide (IC 35-42-1-2.5).
- 26 (4) Voluntary manslaughter (IC 35-42-1-3).
- 27 (5) Reckless homicide (IC 35-42-1-5).
- 28 (6) Battery as a felony (IC 35-42-2-1).
- 29 (7) Aggravated battery (IC 35-42-2-1.5).
- 30 (8) Kidnapping (IC 35-42-3-2).
- 31 (9) Criminal confinement (IC 35-42-3-3).
- 32 (10) A felony sex offense under IC 35-42-4.
- 33 (11) Carjacking (IC 35-42-5-2).
- 34 (12) Arson (IC 35-43-1-1).
- 35 (13) Incest (IC 35-46-1-3).
- 36 (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and
 37 IC 35-46-1-4(a)(2)).
- 38 (15) Child selling (IC 35-46-1-4(d)).
- 39 (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- 40 (17) A felony relating to controlled substances under IC 35-48-4.
- 41 (18) An offense relating to material or a performance that is
 42 harmful to minors or obscene under IC 35-49-3.

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(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex or violent offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5).

SECTION 29. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in ~~any of the offenses described in IC 11-8-8-5~~ a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2); or

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

(2) commits ~~an~~ a sex offense described in ~~IC 11-8-8-5~~ (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for ~~an~~ a sex offense described in ~~IC 11-8-8-5~~ (as defined in IC 11-8-8-5.2) for which the person is required to register as ~~an~~ sex offender under IC 11-8-8;

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense ~~listed in IC 11-8-8-5~~ (as defined in IC 11-8-8-5.2) for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall determine whether the

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person is a sexually violent predator under subsection (b).

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice of its finding under this subsection to the department of correction.

(g) A person who is found by a court to be a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court makes its finding under subsection (e); or

(2) a person found to be a sexually violent predator under subsection (b) is released from incarceration.

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

SECTION 30. IC 35-43-1-2, AS AMENDED BY P.L.173-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);

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- 1 (ii) the property damaged was a moving motor vehicle;
- 2 (iii) the property damaged contained data relating to a
- 3 person required to register as a sex **or violent** offender
- 4 under IC 11-8-8 and the person is not a sex **or violent**
- 5 offender or was not required to register as a sex **or violent**
- 6 offender;
- 7 (iv) the property damaged was a locomotive, a railroad car,
- 8 a train, or equipment of a railroad company being operated
- 9 on a railroad right-of-way;
- 10 (v) the property damaged was a part of any railroad signal
- 11 system, train control system, centralized dispatching system,
- 12 or highway railroad grade crossing warning signal on a
- 13 railroad right-of-way owned, leased, or operated by a
- 14 railroad company;
- 15 (vi) the property damaged was any rail, switch, roadbed,
- 16 viaduct, bridge, trestle, culvert, or embankment on a
- 17 right-of-way owned, leased, or operated by a railroad
- 18 company; or
- 19 (vii) the property damage or defacement was caused by paint
- 20 or other markings; and
- 21 (B) a Class D felony if:
- 22 (i) the pecuniary loss is at least two thousand five hundred
- 23 dollars (\$2,500);
- 24 (ii) the damage causes a substantial interruption or
- 25 impairment of utility service rendered to the public;
- 26 (iii) the damage is to a public record;
- 27 (iv) the property damaged contained data relating to a
- 28 person required to register as a sex **or violent** offender
- 29 under IC 11-8-8 and the person is a sex **or violent** offender
- 30 or was required to register as a sex **or violent** offender;
- 31 (v) the damage causes substantial interruption or impairment
- 32 of work conducted in a scientific research facility;
- 33 (vi) the damage is to a law enforcement animal (as defined
- 34 in IC 35-46-3-4.5); or
- 35 (vii) the damage causes substantial interruption or
- 36 impairment of work conducted in a food processing facility.
- 37 (b) A person who recklessly, knowingly, or intentionally damages:
- 38 (1) a structure used for religious worship;
- 39 (2) a school or community center;
- 40 (3) the grounds:
- 41 (A) adjacent to; and
- 42 (B) owned or rented in common with;

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a structure or facility identified in subdivision (1) or (2); or
 (4) personal property contained in a structure or located at a
 facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the
 property that is damaged, commits institutional criminal mischief, a
 Class A misdemeanor. However, the offense is a Class D felony if the
 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
 two thousand five hundred dollars (\$2,500), and a Class C felony if the
 pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that
 involves the use of graffiti, the court may, in addition to any other
 penalty, order that the person's operator's license be suspended or
 invalidated by the bureau of motor vehicles for not more than one (1)
 year.

(d) The court may rescind an order for suspension or invalidation
 under subsection (c) and allow the person to receive a license or permit
 before the period of suspension or invalidation ends if the court
 determines that:

(1) the person has removed or painted over the graffiti or has
 made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the
 criminal mischief or institutional criminal mischief is satisfied
 with the removal, painting, or other restitution performed by the
 person.

SECTION 31. IC 35-44-3-13, AS ADDED BY P.L.139-2006,
 SECTION 5, AS ADDED BY P.L.140-2006, SECTION 34, AND AS
 ADDED BY P.L.173-2006, SECTION 35, IS CORRECTED AND
 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:
 Sec. 13. (a) A person who is being supervised on lifetime parole (as
 described in IC 35-50-6-1) and who knowingly or intentionally violates
 a condition of lifetime parole that involves direct or indirect contact
 with a child less than sixteen (16) years of age or with the victim of a
~~sex crime described in IC 5-2-12-4 IC 11-8-8-5~~ that was committed by
 the person commits a Class D felony if, at the time of the violation:

(1) the person's lifetime parole has been revoked two (2) or more
 times; or

(2) the person has completed the person's sentence, including any
 credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the
 person has a prior unrelated conviction under this section.

SECTION 32. IC 35-50-2-2, AS AMENDED BY P.L.151-2006,
 SECTION 28, AND AS AMENDED BY P.L.140-2006, SECTION 36

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1 AND P.L.173-2006, SECTION 36, IS CORRECTED AND
 2 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:
 3 Sec. 2. (a) The court may suspend any part of a sentence for a felony,
 4 except as provided in this section or in section 2.1 of this chapter.

5 (b) With respect to the following crimes listed in this subsection, the
 6 court may suspend only that part of the sentence that is in excess of the
 7 minimum sentence, unless the court has approved placement of the
 8 offender in a forensic diversion program under IC 11-12-3.7:

9 (1) The crime committed was a Class A or Class B felony and the
 10 person has a prior unrelated felony conviction.

11 (2) The crime committed was a Class C felony and less than seven
 12 (7) years have elapsed between the date the person was
 13 discharged from probation, imprisonment, or parole, whichever
 14 is later, for a prior unrelated felony conviction and the date the
 15 person committed the Class C felony for which the person is
 16 being sentenced.

17 (3) The crime committed was a Class D felony and less than three
 18 (3) years have elapsed between the date the person was
 19 discharged from probation, imprisonment, or parole, whichever
 20 is later, for a prior unrelated felony conviction and the date the
 21 person committed the Class D felony for which the person is
 22 being sentenced. However, the court may suspend the minimum
 23 sentence for the crime only if the court orders home detention
 24 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 25 sentence specified for the crime under this chapter.

26 (4) The felony committed was:

27 (A) murder (IC 35-42-1-1);

28 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 29 causing death;

30 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

31 (D) kidnapping (IC 35-42-3-2);

32 (E) confinement (IC 35-42-3-3) with a deadly weapon;

33 (F) rape (IC 35-42-4-1) as a Class A felony;

34 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 35 felony;

36 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 37 felony;

38 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 39 with a deadly weapon;

40 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 41 injury;

42 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury

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or with a deadly weapon;
 (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
 (M) escape (IC 35-44-3-5) with a deadly weapon;
 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 (O) dealing in cocaine *or* a narcotic drug *or methamphetamine* (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
 (i) school property;
 (ii) a public park;
 (iii) a family housing complex; or
 (iv) a youth program center;
 (P) *dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:*
 (i) school property;
 (ii) a public park;
 (iii) a family housing complex; or
 (iv) a youth program center;
 (Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
 (i) school property;
 (ii) a public park;
 (iii) a family housing complex; or
 (iv) a youth program center;
~~(R)~~ (R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

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~~(R)~~ (S) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or
~~(S)~~ (T) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of **the sentence of a sex offender or violent offender** (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) sentence that is suspendible under subsection (b), the court shall place the **sex or violent** offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be suspended.

SECTION 33. IC 35-50-6-1, AS AMENDED BY P.L.139-2006, SECTION 6, AS AMENDED BY P.L.140-2006, SECTION 38, AND AS AMENDED BY P.L.173-2006, SECTION 38, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if the sentence included a period of probation.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires,

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1 unless the person's parole is revoked or the person is discharged from
 2 that term by the parole board. In any event, if the person's parole is not
 3 revoked, the parole board shall discharge the person after the period set
 4 under subsection (a) or the expiration of the person's fixed term,
 5 whichever is shorter.

6 (c) A person whose parole is revoked shall be imprisoned for all or
 7 part of the remainder of the person's fixed term. However, the person
 8 shall again be released on parole when the person completes that
 9 remainder, less the credit time the person has earned since the
 10 revocation. The parole board may reinstate the person on parole at any
 11 time after the revocation.

12 (d) This subsection does not apply to a person who is a sexually
 13 violent predator under IC 35-38-1-7.5. When a sex offender (as defined
 14 in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~ **IC 11-8-8-4.5**) completes the sex
 15 offender's fixed term of imprisonment, less credit time earned with
 16 respect to that term, the sex offender shall be placed on parole for not
 17 more than ten (10) years.

18 (e) This subsection applies to a person who:

19 (1) is a sexually violent predator under IC 35-38-1-7.5;

20 (2) **has been convicted of murder (IC 35-42-1-1); or**

21 (3) **has been convicted of voluntary manslaughter**
 22 **(IC 35-42-1-3).**

23 When a ~~sexually violent predator~~ **person described in this subsection**
 24 completes the person's fixed term of imprisonment, less credit time
 25 earned with respect to that term, the person shall be placed on parole
 26 for the remainder of the person's life.

27 (f) This subsection applies to a parolee in another jurisdiction who
 28 is a ~~sexually violent predator under IC 35-38-1-7.5~~ **person described**
 29 **in subsection (e)** and whose parole supervision is transferred to
 30 Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2)
 31 (Interstate Compact for Out-of-State Probationers and Parolees) and
 32 rules adopted under Article VII (d)(8) of the Interstate Compact for
 33 Adult Offender Supervision (IC 11-13-4.5), a parolee who is a ~~sexually~~
 34 ~~violent predator~~ **person described in subsection (e)** and whose parole
 35 supervision is transferred to Indiana is subject to the same conditions
 36 of parole as a ~~sexually violent predator~~ **person described in**
 37 **subsection (e) who was** convicted in Indiana, including:

38 (1) lifetime parole (as described in subsection (e)); and

39 (2) the requirement that the person wear a monitoring device (as
 40 described in IC 35-38-2.5-3) that can transmit information
 41 twenty-four (24) hours each day regarding a person's precise
 42 location, if applicable.

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(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

(1) supervise the person while the person is being supervised by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

SECTION 34. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex **and violent** offender **registry** web site, known as the Indiana sex **and violent** offender registry, to inform the general public about the identity, location, and appearance of every sex **or violent** offender residing within Indiana. The web site must provide information regarding each sex **or violent** offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex **and violent** offender **registry** web site must include the following information:

(1) A recent photograph of every sex **or violent** offender who has registered with a sheriff. ~~after the effective date of this chapter.~~

(2) The home address of every sex **or violent** offender.

(3) The information required under IC 11-8-8-8.

(c) Every time a sex **or violent** offender registers, but at least once per year, the sheriff shall photograph the sex **or violent** offender. The sheriff shall place this photograph on the Indiana sex **and violent** offender **registry** web site.

(d) The photograph of a sex **or violent** offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

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(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex **and violent** offender **registry** web site.

(e) The Indiana sex **and violent** offender **registry** web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 35. IC 36-3-1-5.1, AS AMENDED BY P.L.1-2006, SECTION 559, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate police protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

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- 1 (1) County jail operations and facilities.
- 2 (2) Emergency communications.
- 3 (3) Security for buildings and property owned by:
 - 4 (A) the consolidated city;
 - 5 (B) the county; or
 - 6 (C) both the consolidated city and county.
- 7 (4) Service of civil process and collection of taxes under tax
- 8 warrants.
- 9 (5) Sex **or violent** offender registration.

10 (e) The following apply if an ordinance is adopted under this
11 section:

- 12 (1) The department of local government finance, on
13 recommendation from the local government tax control board,
14 shall adjust the maximum permissible ad valorem property tax
15 levy of the consolidated city and the county for property taxes first
16 due and payable in the year a consolidation takes effect under this
17 section. When added together, the adjustments under this
18 subdivision must total zero (0).
- 19 (2) The ordinance must specify which law enforcement officers
20 of the police department and which law enforcement officers of
21 the county sheriff's department shall be law enforcement officers
22 of the consolidated law enforcement department.
- 23 (3) The ordinance may not prohibit the providing of law
24 enforcement services for an excluded city under an interlocal
25 agreement under IC 36-1-7.
- 26 (4) A member of the county police force who:
 - 27 (A) was an employee beneficiary of the sheriff's pension trust
28 before the consolidation of the law enforcement departments;
29 and
 - 30 (B) after the consolidation becomes a law enforcement officer
31 of the consolidated law enforcement department;
32 remains an employee beneficiary of the sheriff's pension trust.
33 The member retains, after the consolidation, credit in the sheriff's
34 pension trust for service earned while a member of the county
35 police force and continues to earn service credit in the sheriff's
36 pension trust as a member of the consolidated law enforcement
37 department for purposes of determining the member's benefits
38 from the sheriff's pension trust.
- 39 (5) A member of the police department of the consolidated city
40 who:
 - 41 (A) was a member of the 1953 fund or the 1977 fund before
42 the consolidation of the law enforcement departments; and

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1 (B) after the consolidation becomes a law enforcement officer
 2 of the consolidated law enforcement department;
 3 remains a member of the 1953 fund or the 1977 fund. The
 4 member retains, after the consolidation, credit in the 1953 fund or
 5 the 1977 fund for service earned while a member of the police
 6 department of the consolidated city and continues to earn service
 7 credit in the 1953 fund or the 1977 fund as a member of the
 8 consolidated law enforcement department for purposes of
 9 determining the member's benefits from the 1953 fund or the
 10 1977 fund.
 11 (6) The ordinance must designate the merit system that shall
 12 apply to the law enforcement officers of the consolidated law
 13 enforcement department.
 14 (7) The ordinance must designate who shall serve as a coapplicant
 15 for a warrant or an extension of a warrant under IC 35-33.5-2.
 16 (8) The consolidated city may levy property taxes within the
 17 consolidated city's maximum permissible ad valorem property tax
 18 levy limit to provide for the payment of the expenses for the
 19 operation of the consolidated law enforcement department. The
 20 police special service district established under section 6 of this
 21 chapter may levy property taxes to provide for the payment of
 22 expenses for the operation of the consolidated law enforcement
 23 department within the territory of the police special service
 24 district. Property taxes to fund the pension obligation under
 25 IC 36-8-7.5 may be levied only by the police special service
 26 district within the police special service district. The consolidated
 27 city may not levy property taxes to fund the pension obligation
 28 under IC 36-8-7.5. Property taxes to fund the pension obligation
 29 under IC 36-8-8 for members of the 1977 police officers' and
 30 firefighters' pension and disability fund who were members of the
 31 police department of the consolidated city on the effective date of
 32 the consolidation may be levied only by the police special service
 33 district within the police special service district. Property taxes to
 34 fund the pension obligation under IC 36-8-10 for members of the
 35 sheriff's pension trust and under IC 36-8-8 for members of the
 36 1977 police officers' and firefighters' pension and disability fund
 37 who were not members of the police department of the
 38 consolidated city on the effective date of the consolidation may be
 39 levied by the consolidated city within the consolidated city's
 40 maximum permissible ad valorem property tax levy. The assets of
 41 the consolidated city's 1953 fund and the assets of the sheriff's
 42 pension trust may not be pledged after the effective date of the

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consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers; that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the ~~state~~ budget committee.

SECTION 36. IC 36-8-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or ~~his~~ **the sheriff's** designee, shall deposit all money from commissary sales into the fund, which ~~he~~ **the sheriff or the sheriff's designee** shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or ~~his~~ **the sheriff's** designee, at ~~his~~ **the sheriff's or the sheriff's designee's** discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
- (3) special training in law enforcement for employees of the sheriff's department;
- (4) equipment installed in the county jail;
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
- (6) an activity provided to maintain order and discipline among the inmates of the county jail;
- (7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the

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1 following:

2 (A) Substance abuse.

3 (B) Child abuse.

4 (C) Domestic violence.

5 (D) Drinking and driving.

6 (E) Juvenile delinquency;

7 (8) expenses related to the establishment, operation, or
8 maintenance of the sex **and violent** offender **registry** web site
9 under IC 36-2-13-5.5; or

10 (9) any other purpose that benefits the sheriff's department that is
11 mutually agreed upon by the county fiscal body and the county
12 sheriff.

13 Money disbursed from the fund under this subsection must be
14 supplemental or in addition to, rather than a replacement for, regular
15 appropriations made to carry out the purposes listed in subdivisions (1)
16 through (8).

17 (e) The sheriff shall maintain a record of the fund's receipts and
18 disbursements. The state board of accounts shall prescribe the form for
19 this record. The sheriff shall semiannually provide a copy of this record
20 of receipts and disbursements to the county fiscal body. The
21 semiannual reports are due on July 1 and December 31 of each year.

22 SECTION 37. [EFFECTIVE JULY 1, 2007] **IC 33-44-3-13, as**
23 **amended by this act, applies only to crimes committed after June**
24 **30, 2007.**

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SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 78 and that Senator Young R Michael be substituted therefor.

LONG

 COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 78, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

(Reference is to SB 78 as introduced.)

LONG, Chairperson

 COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 78, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 23, delete lines 16 through 42.

Delete pages 24 through 36.

Page 37, delete lines 1 through 8.

Page 41, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 30. IC 35-44-3-13, AS ADDED BY P.L.139-2006, SECTION 5, AS ADDED BY P.L.140-2006, SECTION 34, AND AS ADDED BY P.L.173-2006, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

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Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a ~~sex crime described in IC 5-2-12-4 IC 11-8-8-5~~ that was committed by the person commits a Class D felony if, at the time of the violation:

- (1) the person's lifetime parole has been revoked two (2) or more times; or
- (2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section."

Page 44, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 32. IC 35-50-6-1, AS AMENDED BY P.L.139-2006, SECTION 6, AS AMENDED BY P.L.140-2006, SECTION 38, AND AS AMENDED BY P.L.173-2006, SECTION 38, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if the sentence included a period of probation.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from that term by the parole board. In any event, if the person's parole is not revoked, the parole board shall discharge the person after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation.

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(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender (as defined in ~~IC 35-2-12-4~~ ~~IC 11-8-8-5~~ **IC 11-8-8-4.5**) completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who:

- (1) is a sexually violent predator under IC 35-38-1-7.5;
- (2) **has been convicted of murder (IC 35-42-1-1); or**
- (3) **has been convicted of voluntary manslaughter (IC 35-42-1-3).**

When a ~~sexually violent predator~~ **person described in this subsection** completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a ~~sexually violent predator under IC 35-38-1-7.5~~ **person described in subsection (e)** and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a ~~sexually violent predator~~ **person described in subsection (e)** and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a ~~sexually violent predator~~ **person described in subsection (e) who was** convicted in Indiana, including:

- (1) lifetime parole (as described in subsection (e)); and
- (2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

- (1) supervise the person while the person is being supervised by the other supervising agency; or
- (2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in

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the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole."

Page 49, after line 22, begin a new paragraph and insert:

"SECTION 35. [EFFECTIVE JULY 1, 2007] **IC 33-44-3-13, as amended by this act, applies only to crimes committed after June 30, 2007.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 78 as printed January 24, 2007.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senator Weatherwax be added as second author, Senator Mrvan be added as third author, and Senators Drozda and Zakas be added as coauthors of Senate Bill 78.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senate Bill 78 be amended to read as follows:

Page 9, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 12. IC 11-8-8-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.2. As used in this chapter, "sex offense" means an offense listed in section 5(a)(1) through 5(a)(17) of this chapter, except for section 5(a)(14) and 5(a)(15) of this chapter.**"

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Page 26, between lines 4 and 5, begin a new paragraph and insert:
 "SECTION 29. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in ~~IC 11-8-8-5~~ **a sex offense (as defined in IC 11-8-8-5.2)**. The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2); or

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

(2) commits ~~an~~ **a sex offense described in IC 11-8-8-5 (as defined in IC 11-8-8-5.2)** while having a previous unrelated conviction for ~~an~~ **a sex offense described in IC 11-8-8-5 (as defined in IC 11-8-8-5.2)** for which the person is required to register as ~~an~~ **sex offender** under IC 11-8-8;

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense ~~listed in IC 11-8-8-5~~ **(as defined in IC 11-8-8-5.2)** for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator under subsection (b).

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

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- (1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and
- (2) the court shall send notice of its finding under this subsection to the department of correction.

(g) A person who is found by a court to be a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

- (1) the sentencing court makes its finding under subsection (e); or
- (2) a person found to be a sexually violent predator under subsection (b) is released from incarceration.

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator."

Renumber all SECTIONS consecutively.

(Reference is to SB 78 as printed February 21, 2007.)

YOUNG R MICHAEL

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